

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TELLER, an individual,

Plaintiff,

vs.

GERARD DOGGE (p/k/a GERARD BAKARDY),
an individual,

Defendant.

Case No. 2:12-cv-00591-JCM-GWF

ORDER

Motion to Seal Documents (#41)

This matter comes before the Court on Plaintiff Teller's ("Plaintiff") Motion to Seal Exhibits to Dogge's Miscellaneous Motions/Defenses (#41), filed on November 2, 2012. Defendant Gerard Dogge ("Defendant") filed a timely Opposition (#43) on November 8, 2012. Plaintiff filed a timely Reply (#45) on November 16, 2012.

Defendant filed his Miscellaneous Motions/Defenses (#34-38) ("Motions") on October 22, 2012. Defendant filed his Answer (#39) to Plaintiff's Complaint ("Answer") on October 24, 2012. Attached to the Motions and Answer as Exhibit 3 is an email from Plaintiff to Defendant containing a settlement offer. Attached to the Motions and Answer as Exhibit 4 is an email from Plaintiff's Counsel to Defendant containing the same settlement offer. In the instant Motion (#41), Plaintiff moves the Court to seal Exhibits 3 and 4 to the Motions and Answer. Plaintiff also requests the Court to seal Attachment 1 to Plaintiff's Emergency Motion for Service by Publication (#8), which is identical to Exhibit 4 to Defendant's Motions and Answer. Finally, Plaintiff requests the Court to redact his personal email address from Exhibit 10 to Defendant's Motions and Answer.

Courts may seal non-dispositive documents and exhibits upon a showing of "good cause." *Selling Source, LLC v. Red River Ventures, LLC*, 2011 WL 1630338, *1 (D. Nev. 2011). The

1 moving party must show that specific harm will result if the court does not seal the documents. *Id.*
2 Courts must then balance the public and private interests at stake to determine whether the
3 documents should be sealed. *Id.* “Confidential research, development, or commercial information”
4 may be sealed from public access. *See* Fed. R. Civ. P. 26(c)(1)(G). While Rule 26 ordinarily
5 applies to discovery, courts have applied it to seal complaints, answers, and other documents. *See,*
6 *e.g., Selling Source*, 2011 WL 1630338 at *2.

7 Plaintiff asserts Exhibits 3 and 4 to Defendant’s Motions and Answer and Attachment 1 to
8 Plaintiff’s Motion (#8) (“Exhibits”) contain sensitive pre-litigation settlement offers, proprietary
9 prop development fees, and proprietary information regarding the illusion at issue in this litigation.
10 Plaintiff claims public access to this information poses a specific harm to Plaintiff, as it would
11 hinder his future ability to negotiate with prop developers. Defendant asserts he does not
12 understand the implications of sealing the Exhibits, and expresses concern that sealing the Exhibits
13 will affect his ability to use them in future pleadings and at trial. The Court finds that public
14 accessibility to the Exhibits poses a specific harm to Plaintiff, and that the balance between the
15 public and private interests at stake weighs in favor of Plaintiff. Therefore, the Court finds it is
16 appropriate to seal the Exhibits. Sealing the Exhibits does not affect Defendant’s ability to use
17 them in this litigation, to the extent they are relevant and admissible. The Exhibits may
18 nevertheless be inadmissible at trial, however, under Federal Rule of Evidence 408's proscription
19 against introducing settlement offers as evidence. Accordingly,

20 **IT IS HEREBY ORDERED** that Plaintiff Teller’s Motion to Seal Certain Documents
21 Filed as Exhibits to Dogge’s Answer and Dogge’s Miscellaneous Motions/Defenses (#41) is
22 **granted.**

23 **IT IS FURTHER ORDERED** that the Clerk of the Court shall seal Exhibits 3 and 4 to
24 Defendant Gerard Dogge’s Motion for the Court to Provide a Translator (#34), Motion to Permit
25 Use of Video and Audio (#35), Motion to Allow Plaintiff to be Questioned (#36), Motion to Set a
26 Time Limit to the Pleadings (#37), Motion to Inform the Defendant in which way the Court
27 guarantees his Security (#38), and Answer (#39).

28 ...

DATED this 20th day of November, 2012.

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